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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,267	04/03/2001	Michael A. Blatchley	9086/104	2082
48733 JESSICA COSTA P.O. BOX 460 CROZET, VA 22932	7590 04/04/2007		EXAMINER STEVENS, THOMAS H	
			ART UNIT 2121	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/04/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

09/825,267

Applicant(s)

BLATCHLEY ET AL.

Examiner

Thomas H. Stevens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 18-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11 is/are allowed.
- 6) ☒ Claim(s) 18-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-11,18-24 were examined.

#### ***Section I: Final Rejection***

##### ***Claim Objections***

2. The examiner has provided a number of claim deficiency examples; however, the list of deficiencies may not be inclusive. Applicant should refer to these as examples of deficiencies and should make all necessary corrections to eliminate the claim objections.

- Claim 22, line 3, "nominal speed"; suggestion: "nominal tape speed"

All claims have been treated on their merits.

#### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 18-24 are considered to be software per se; as such they are abstract and thus non-statutory subject matter. This claimed subject matter lacks a practical application of a judicial exception (law of nature, abstract idea, naturally occurring article/phenomenon) since it fails to produce a useful, concrete and tangible result.

Specifically, the claimed subject matter does not produce a useful ,concrete and tangible result because the claimed subject matter fails to sufficiently reflect at least one practical utility set forth in the descriptive portion of the specification. More specifically,

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while the described practical utility is directed to simulation of a tape drum the claimed subject matter relates ONLY to the individual steps of the process but fails to denote the significance/benefit of this process.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 18, 23-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 23 and 24 recite the limitation "the amount of overlap" in lines 5 and 6 respectively. There is insufficient antecedent basis for this limitation in the claim.

7. Claims 23 and 24 recite the limitation "the area" in lines 6 and 7 respectively. There is insufficient antecedent basis for this limitation in the claim.

***Section II: Allowable Subject Matter***

8. As allowable subject matter has been indicated, applicants' reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

9. Claims 1-11 were allowed.

10. Claims 12-17 were cancelled.

***Section III: Response to Arguments***

***Claim Renumbering/Specification Objections***

11. Applicants are thanked for responding to these issues. Objections are withdrawn.

***Claim Objections/Rejections (112)***

12. Applicants are thanked for responding to these issues; however, while most of the objections were addressed and corrected, some remain outstanding as set forth above.

***Allowable Subject Matter Rescinded***

13. The indication of allowable subject matter has been rescinded for claims 18-24 based on the 101 rejections as set forth above.

***Conclusion***

14. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Tom Stevens whose telephone number is 571-272-3715, Monday-Friday (7:00 am- 4:30 pm EST).

If attempts to reach the examiner by telephone are unsuccessful, please contact examiner's supervisor Mr. Anthony Knight 571-272-3687. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>... Answers to questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) (toll-free (866-217-9197)).

  
Anthony Knight  
Supervisory Patent Examiner

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